



SUGGESTED

State Auditing Acts

AND
CONSTITUTIONAL
AMENDMENTS

BY THE
COMPTROLLER GENERAL
OF THE UNITED STATES
1974

FOREWORD

Obtaining effective cooperation and coordination of audit work among Federal, State, and local Governments is a complex task. Yet, it is essential if the legislators and executives of these various government levels are to get the audit information they need without duplication of audit work by the various levels.

As a first step, the General Accounting Office in 1972 issued Standards for Audit of Governmental Organizations, Programs, Activities & Functions. The concept underlying these standards was that an audit made in accordance with them would be usable by all interested levels of government and that each would not think it necessary to make a separate audit for its own needs. In recognition of the broad interest of legislators and government executives, these standards provided not only for the traditional financial audit but also included provision for determining whether applicable laws and regulations had been complied with, economy and efficiency had been practiced in the use of resources, and desired results had been effectively attained.

The development of the suggested State auditing acts was a further step in fostering the concept of intergovernmental cooperation in audit work. The project was undertaken in response to expressions from certain State auditors that such a project was needed to change laws limiting them to financial auditing or other restrictions constraining them from cooperating fully with auditors at other levels of Government. We hope the acts will be useful to those States that find it necessary or desirable to revise their auditing laws. The acts include a number of options which are intended to help a State adapt the law to its own situation and needs. We do not imply that a change in any one State's auditing organization or staffing is needed.

Because the constitutions of States vary as to whether the chief auditing official is appointed by the Governor or the legislature or is elected by the public, we have prepared suggested acts for both situations. Although either of the proposed acts can be used in its entirety, they are structured so that specific parts can be selected to serve the unique needs of those States that do not plan to totally rewrite their existing statutes. Constitutional amendments have also been included for use when required.

It is our hope that this publication will encourage and aid improvement in audits of government programs.

We appreciate the extensive assistance received from appointed and elected audit representatives of the States and from representatives of the American Institute of Certified Public Accountants.

We also wish to acknowledge the consultative assistance provided by the Advisory Commission on Intergovernmental Relations. We value the endorsement by its Executive Director of the type of audit legislation represented here. (See app. II.)



Comptroller General
of the United States

C o n t e n t s

Page

PART

I	INTRODUCTION	1
II	SUGGESTED STATE AUDITING ACT AND CONSTITUTIONAL AMENDMENT FOR AN AUDITOR APPOINTED BY THE LEGISLATURE OR BY THE GOVERNOR WITH APPROVAL BY THE LEGISLATURE	4
	Section	
	1. Short title	4
	2. Declaration of policy and purpose	4
	3. Legislative and management control systems	6
	4. Definitions	6
**	5. Establishment of the [Legislative Committees on Government Operations (Committees)] and Office of [Auditor]	10
	6. Committees' membership	11
	7. Meetings and reimbursement	11

**The double asterisks identify sections in the two suggested acts and constitutional amendments that are different, that is, a section is either in one and not the other or in both but treated differently in each. Appendix I analyzes these differences in detail.

Note: Bracketed features of the act indicate suggested or nonspecified language only.

PART

	8. Responsibilities of the [Committees]	12
	9. Action on reports of the [Auditor,] Legislative Finance Committees, and other legislative committees	13
	10. Requests for [Auditor] assistance	14
**	11. [Auditor]--compensation and appointment	14
**	12. Qualifications	15
**	13. Term of office	16
	14. Duties and responsibilities	17
	15. Reports and workpapers	24
	16. Access to persons and records	25
	17. Cooperation with other governmental bodies	27
	18. Authority to administer oaths, subpoena witnesses and records, and take depositions	27
**	19. Employees	29
	20. Contract auditors, consultants, and experts	31
**	21. Conflict of interest, political activity	32
	22. Financial records	33
	23. Construction	33

<u>PART</u>		<u>Page</u>
	24. Severability	34
	25. Effective date	34
**	CONSTITUTIONAL AMENDMENT	35
III	SUGGESTED STATE AUDITING ACT AND CON- STITUTIONAL AMENDMENT FOR AN AUDITOR ELECTED BY THE PUBLIC	36
	1. Short title	36
	2. Declaration of policy and purpose	36
	3. Legislative and management con- trol systems	37
	4. Definitions	38
**	5. Establishment of the [Legislative Committees on Government Operations (committees)]	42
	6. Committees' membership	43
	7. Meetings and reimbursement	43
**	8. Responsibilities of the [Com- mittees]	44
	9. Action on reports of the [Auditor,] Legislative Finance Committees, and other legislative committees	45
	10. Requests for [Auditor] assistance	46
	11. Duties and responsibilities	46
	12. Reports and workpapers	54
	13. Access to persons and records	54

<u>PART</u>		<u>Page</u>
	14. Cooperation with other governmental bodies	57
	15. Authority to administer oaths, subpoena witnesses and records, and take depositions	57
**	16. Employees	59
	17. Contract auditors, consultants, and experts	62
**	18. Conflict of interest, political activity	63
	19. Financial records	64
	20. Construction	64
	21. Severability	65
	22. Effective date	65
**	CONSTITUTIONAL AMENDMENT	66
APPENDIX		
I	Summary of differences between appointed and elected auditor requirements	69
II	Endorsement by the Advisory Commission on Intergovernmental Relations	72

PART I

INTRODUCTION

The suggested acts and constitutional amendments that follow provide the basis for strengthening legislative oversight that can impact on all levels of government.

Part II contains the provisions suggested for States that choose to have an auditor appointed by the legislature or by the Governor with approval by the legislature. Part III contains the provisions suggested for States with constitutions that provide for the public election of an auditor. Throughout this proposed legislation, we refer to the official responsible for auditing in State Governments as the auditor. Terms such as legislative auditor, State auditor, or auditor general, should be used as appropriate or desirable.

The acts and constitutional amendments:

1. Provide for the election, or the legislative or gubernatorial appointment of an independent auditor with an extended term.
2. Authorize the auditor to make broad-scope audits in accordance with audit standards

issued by the General Accounting Office (that is, audits of financial operations and compliance with applicable laws and regulations, economy and efficiency, and program results).

3. Assign to the auditor the responsibility to oversee auditing within the State when performed by other audit organizations of or for the State and political subdivisions.
4. Establish legislative committees at the State level to be responsible for coordinating legislative oversight of the economy, efficiency, and effectiveness of governmental operations and activities and for assuring maximum coordination between the work of the auditor and the oversight responsibilities of the legislature.
5. Minimize the influence of partisan politics on the selection and operations of the appointed auditor and on the operations of the elected auditor.
6. Include the concept of intergovernmental audit cooperation and coordination, which will lead to the recognition and acceptance

of the audit results by all governmental levels, subject to necessary tests and evaluations of audit scope and independence.

PART II

SUGGESTED STATE AUDITING ACT AND

CONSTITUTIONAL AMENDMENT FOR AN AUDITOR

APPOINTED BY THE LEGISLATURE OR BY THE GOVERNOR

WITH APPROVAL BY THE LEGISLATURE

THE AUDITING ACT OF [YEAR] CREATING
[LEGISLATIVE COMMITTEES ON GOVERNMENT OP-
ERATIONS] AND THE OFFICE OF [AUDITOR] AND
PROVIDING FOR AUDITS OF STATE AGENCIES, POLI-
TICAL SUBDIVISIONS, AND OTHER ENTITIES SUP-
PORTED BY PUBLIC FUNDS.¹

BE IT ENACTED BY THE LEGISLATURE OF THE
STATE OF [].

Section 1. Short title. This act may be cited
as the "Auditing Act of [year]."

Section 2. Declaration of policy and purpose.
The Legislature is ultimately responsible for autho-
rizing the expenditure of public moneys, designating
the sources from which moneys may be collected, and
shaping the administrative structure to perform the
work of government throughout the State, and is held

¹Bracketed features of the act indicate suggested or
nonspecified language only.

finally accountable for how the funds are spent and what is accomplished with them. The Legislature should, therefore, provide the basic objectives and standards for audits of State agencies and political subdivisions.

In the interest of reducing audit overlap and expense at all levels of government, the Legislature and the Auditor should promote, to the extent possible, coordinated nonduplicating audit of public programs and activities at all governmental levels throughout the State.

It is the intent of this act that all State agencies, political subdivisions, and other entities supported by public funds within the State be subject to audit by or under the policy guidance of the Auditor. Such audits shall be made to assist in furnishing the Legislature, the Governor, the executive departments and agencies of the State, the governing bodies and executive departments of the political subdivisions of the State, and the public in general with an independent evaluation of public program performance.

Section 3. Legislative and management control systems. It is the intent of this act that auditing by or for State agencies and political subdivisions will not be duplicated by the Auditor. As appropriate, all State agencies, and the governing bodies or executive departments of political subdivisions, are encouraged to establish, maintain, and use effective systems of management control or, in the case of local governing bodies, legislative control, including audit. The adequacy of these control systems will be reviewed by the Auditor in accordance with section 14, b, 6. The Auditor may, at his discretion, use such reviews

--to limit his audit activity under section
14, c and

--to suggest guidelines, make recommendations,
and provide assistance where necessary.

Section 4. Definitions. The words and phrases used in this act have the following meanings.

a. "Audit," an independent postaudit or examination of government organizations, programs, activities, and functions. The elements of such an audit are:

- Financial and compliance--determines whether financial operations are properly conducted, whether the financial reports of an audited entity are presented fairly, and whether the entity has complied with applicable laws and regulations.
- Economy and efficiency--determines whether the entity is managing or utilizing its resources (personnel, property, space, and so forth) in an economical and efficient manner and the causes of any inefficiencies or uneconomical practices, including inadequacies in management information systems, administrative procedures, or organizational structures.
- Program results--determines whether the desired results or benefits are being achieved, whether the objectives established by the Legislature or other authorizing body are being met, and whether the agency has considered alternatives which might yield desired results at lower costs.

b. "Federal agency," any department, agency, or instrumentality of the Federal Government and any federally owned or controlled corporation.

c. "Formal Advertising," competitive, fixed price, low bid procurement.¹

d. "Merit system," a planned State or local operation that develops and maintains an efficient career service under public rules which include, but are not limited to, provisions requiring appointment through competitive examination; nondiscrimination in race, politics, sex, or religion; an equitable and adequate plan of compensation; tenure contingent on successful performance; and promotion based on evaluated capacity and service.

e. "Malfeasance," any wrongful conduct of a public officer that affects, interrupts, or interferes with the performance of an official duty.

¹See Federal Procurement Regulations, Part 1-2 for a description of this procurement concept.

- f. "Misfeasance," the performance of a duty in an improper manner by a public officer.
- g. "Nonfeasance," the total omission or failure of a public officer to enter upon the performance of some duty or undertaking required by his office.
- h. "Political Subdivision," a separate agency or unit of local government created or established by law and includes, but is not limited to, authority, agency, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolition government, municipality, office, officer, public corporation, quasi-public corporation, town, township, or village and all boards, commissions, committees, bureaus, and departments of such political subdivisions; provided, the legislative functions of elected governing bodies, such as city and county councils, are not included in the meaning of this term.
- i. "State," a State, territory, or posession of the United States, including the District of Columbia.

j. "State agency," a unit or entity of State government created or established pursuant to law, including, but not limited to, authority, agency, board, branch, bureau, commission, department, district, division, institution, office, officer, and public corporation.

Section 5. Establishment of the [Legislative Committees on Government Operations (committees)] and Office of [Auditor].¹

- a. There is hereby created in each house of the Legislature a [Legislative Committee on Government Operations (committees)] which shall be a permanent standing committee.
- b. There is hereby established in the legislative branch the Office of [Auditor]. The incumbent of this office shall be responsible for the duties imposed by this act.

¹Coordination of the legislative oversight function may be assigned to an existing standing committee in each of the respective houses to avoid a proliferation of committees. Committee responsibilities should include those stated in section 8. Where the press of other matters on these standing committees is so great as to derogate the attention given to the oversight process, including audit, subcommittees conforming to sections 5 through 8 can be organized.

Section 6. [Committees' membership]. The [committees] shall consist of [number] members of the [Senate] and [number] members of the [House of Representatives] appointed in the same manner as standing committees in the respective Houses. The committees shall consist of equal representation from the two parties gaining the greatest number of votes at the last State-wide election. The terms of appointed members shall end by resignation, the termination of service in the Legislature, or [specify]. Vacancies on the committees between legislative sessions shall be filled in the same manner as provided above. The committees shall select their own chairmen, and such other officers as they deem necessary, from among their membership and shall prescribe their own rules of procedure for the conduct of committee affairs.

Section 7. Meetings and reimbursement. The [committees] shall meet as often as may be necessary, during and between legislative sessions, to perform their duties and functions. Committee members shall be reimbursed from appropriations made available for their actual and necessary expenses incurred as a result of such regular and interim meetings and

other duties as required in accordance with statutes governing expense reimbursement to members of the Legislature.

Section 8. Responsibilities of the [Committees].

The [committees] shall be responsible for coordinating legislative oversight of the economy, efficiency, and effectiveness of government operations and activities, including auditing. The [committees] shall:

- a. Evaluate the qualifications of candidates for position of Auditor and recommend to the [Governor and/or Legislature] a qualified person for the position.
- b. Meet with appropriate representatives of other committees of the House and Senate to discuss the oversight plans of such committees and to assist in coordinating all oversight activities of the House and Senate. The [committees] shall report [specify period of time] to the House and the Senate and shall review plans and priorities identified during such meetings and discussions, along with any recommendations which they may have, to insure

the most effective coordination of such activities and otherwise achieve the objectives of this section.

c. Receive and examine reports of Legislative Finance Committees, other legislative committees, and the Auditor and submit such recommendations to the House and Senate or to legislative committees as it deems necessary or desirable in connection with the subject matter of such reports.

d. Periodically review or request the Auditor to review the activities of State agencies, and political subdivisions, including their economy, efficiency, and effectiveness, without regard to the oversight jurisdiction over such matters that may be held by other committees.

Section 9. Action on reports of the [Auditor,] Legislative Finance Committees, and other legislative committees. The head of the audited organization to which a report by the Auditor, the Legislative Finance Committees, or other legislative committees pertains shall, within a reasonable time after receipt of the report, advise the Auditor, the chairmen of the [committees],

or the local governing body (when a political sub-division is involved) of actions taken or to be taken on any recommendations made in the report or explain the reasons for not taking action.

Section 10. Requests for [Auditor] assistance.

Members and committees of the Legislature and local governing bodies, the Governor, and other State officials may request the Auditor to undertake a specific audit or investigation; to provide technical assistance and advice; and to provide recommendations on management systems, finance, accounting, auditing, budgeting, and other areas of management interest.

Section 11. [Auditor]--compensation and appointment.¹ The Governor shall appoint an Auditor subject to confirmation by the [Senate or both Houses of the Legislature] during the current or, if the appointment is made during an interim period, the next session of the Legislature. Compensation for the Auditor shall be set in the same manner as

¹Two alternative methods are provided. The first paragraph is used when the Governor appoints the auditor. The second paragraph is used when the Legislature appoints the auditor.

that for other heads of major State departments and shall not be reduced during his tenure of office.

or

The Legislature shall appoint, by [majority] vote of the members, an Auditor subject to the provisions of this act. Compensation for the Auditor shall be set in the same manner as that for other heads of major State departments and shall not be reduced during his tenure of office.

Section 12. Qualifications. The Auditor shall, at the time of his appointment, have demonstrated technical competence and administrative ability. He shall (a) have at least [5] years of supervisory and management experience in auditing a major government agency at the State, Federal, or local level or a major commercial or nonprofit organization and (b) be either a certified public accountant, a licensed public accountant, or a certified internal auditor or have received an appropriate graduate degree from an accredited institution of higher learning.

Section 13. Term of office. The Auditor shall serve for a term of [5, 9, or 15] years¹ following the date of his [appointment and/or confirmation] and shall [not] be eligible for reappointment.² He may be removed from office by [joint and/or concurrent] resolution³ of the Legislature, following notice of hearing, when, in the opinion of the Legislature, he is permanently incapacitated or is guilty of malfeasance, misfeasance, or nonfeasance. The Auditor shall be automatically removed from office when he has been adjudged by a court of law guilty of any felony or conduct

¹ A term of office for the auditor is not recommended for uniform application in all States. We believe the auditor should be appointed for an extended term that exceeds the normal term of regularly elected officials of the State.

² If the auditor is appointed for only a relatively short term, the State may choose to make him eligible for reappointment.

³ Removal by joint resolution if appointed by the Governor; removal by concurrent resolution if appointed by the legislature in States where concurrent resolutions are in-house legislative measures which are not presented to the Governor for approval.

involving moral turpitude, and the Chief Deputy Auditor appointed under the provisions of section 19 shall be acting Auditor until a new Auditor is appointed under the provisions of section 11.

Section 14. Duties and responsibilities.

- a. It is the stated policy of the Legislature to provide for the auditing of State agencies and political subdivisions by an impartial independent auditor.
- b. The duties of the Auditor are to independently examine into whether State agencies and political subdivisions:
 1. Are carrying out only those activities or programs authorized by the Legislature, the governing bodies of political subdivisions, and, if applicable, Federal law and regulation.
 2. Are determining that the authorized activities or programs effectively serve the intent and purpose of the Legislature and, if applicable, Federal law and regulation.

3. Are conducting programs and activities and expending funds made available in a faithful, efficient, and economical manner only in compliance with, and in furtherance of, applicable laws and regulations of the State, governing bodies of political subdivisions, and, if applicable, Federal law and regulation.
4. Are promptly collecting, depositing, and properly accounting for all revenues and receipts arising from their activities.
5. Are providing financial and other reports which disclose fairly, consistently, fully, and promptly all information needed to show the nature and scope of programs and activities and to establish bases for evaluating the results of such programs and operations.
6. Have established adequate operating and administrative procedures and practices; systems of accounting, reporting, and auditing; and other necessary elements of legislative or management control.

c. The Auditor shall be responsible for the following acts and activities.

1. He shall make and enforce such reasonable rules and regulations as are necessary for the operation of his office.
2. He shall perform his authorized duties independent of the executive branch and in support of the responsibilities of the [committees]. Except as otherwise provided by law, neither the Legislature nor the Governor nor any department or agency of the executive branch of State government or political subdivision of the State shall have authority to limit the scope, direction, or report of an audit undertaken by the Auditor.
3. Audits made or caused to be made by the Auditor shall be made in accordance with auditing standards issued by the United States General Accounting Office and those promulgated by the American Institute of Certified Public Accountants referred to therein.

4. Audits may be made at the discretion of the Auditor without advance notice to the organization being audited.
5. The Auditor, on his own initiative and as often as he deems necessary or as requested by the Legislature, shall, to the extent deemed practicable and consistent with his overall responsibility as contained in this act, make or cause to be made audits of all or any part of the activities of the State agencies and political subdivisions. In so doing, he shall take into consideration the effectiveness of the established system of legislative or management control, including audit, within or applicable to the State agency or political subdivision so that duplication of auditing effort and expense may be minimized.
6. The Auditor, at his own discretion, may, in selecting audit areas and in evaluating current audit activity, consider and

utilize, in whole or in part, the relevant audit coverage and applicable reports of the audit staffs of the various State agencies, political subdivisions, independent contractors, and Federal agencies. He shall coordinate, to the extent deemed practicable, the auditing conducted within the State to meet the needs of all governmental bodies.

7. The Auditor, at his own discretion, may perform specific auditing services requested by State agencies, political subdivisions, and Federal agencies.

d. In recognition of the potential usefulness of the independent audit to both the legislative and executive branches of government, the Auditor shall be responsible for providing complete and timely reports of his activities in accordance with the following procedure:

1. The Auditor shall promptly provide in a written statement to the Attorney General, and other appropriate officials, such facts as are in

his possession which pertain to the (a) apparent violation of penal statutes, and (b) apparent instances of misfeasance, malfeasance, or nonfeasance by an officer or employee.

2. At the conclusion of an audit, the Auditor or his designated representative shall discuss the audit with the official whose office is subject to audit and submit necessary underlying facts developed for all findings and recommendations which may be included in the audit report. If practicable, the official shall be permitted a reasonable time to examine and evaluate the audit findings and shall be permitted to submit to the Auditor or his designated representative a written statement of explanation or rebuttal concerning the audit findings, including a statement of actions taken or under consideration relative to the audit findings and recommendations.

If such a statement is not received within a reasonable time, the Auditor may submit the report without it.

3. A copy of each audit report shall be submitted to the Legislature and to [committees], appropriation committees, and the legislative committees having jurisdiction over legislation relating to the operations of the audited organization, of the two Houses. The Auditor shall also provide a copy of each audit report to the Governor and shall file a copy of the audit report in the Auditor's office which will be a permanent public record and shall make or cause to be made such public notice of the report as is required by law; provided, nothing in this subsection shall be construed as authorizing or permitting the publication of information whose disclosure is otherwise prohibited by law; provided also that release of reports of audits performed at the specific request of a legislative [committee] may be restricted to that committee at the discretion of the committee.

4. It is not the intent of the audit function, nor shall it be so construed, to infringe upon or deprive the Legislature or the executive or judicial branches of State or local government of any rights, powers, or duties vested in or imposed upon them by statute or the constitution.

Section 15. Reports and workpapers. The Auditor shall maintain for [specify] years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under his authority, together with audit workpapers and other evidence and related supportive material directly pertaining to the work of his office. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, pertinent workpapers and other supportive material related to issued audit reports may be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of agencies of the Federal Government and political subdivisions of the State who desire access to and inspection of such records in connection with some matter officially before them.

Section 16. Access to persons and records.

a. The Auditor and his authorized representatives shall, for auditing authorized by this act, have ready access to persons and may examine and copy such records, accounts, papers, reports, vouchers, correspondence, books, and any other documentation of any State agency or political subdivision. The Auditor and his authorized representatives shall also have access to State tax returns, provided the Auditor's report does not violate the confidentiality provision of the tax laws.

b. The Auditor and his duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any private corporation, institution, association, board, or other organization which pertain to:

1. Amounts received pursuant to grant or contract entered into without formal advertising from the Federal Government, the State, or its political subdivisions.

2. Amounts received, disbursed, or otherwise handled on behalf of the Federal Government or the State or its political subdivisions.

c. The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in (1) the possession of any State agency or political subdivision and (2) the possession of any private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract, or any other type of funding by the State of [specify], a political subdivision thereof, or the Federal Government.

d. All contracts or grants entered into by State agencies or political subdivisions without formal advertising shall include, as a necessary part, a clause providing access as intended by subsection b of this section; and all contracts or grants entered into by State agencies or

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political subdivisions shall include, as a necessary part, a clause providing access as intended by subsection c of this section.

Section 17. Cooperation with other governmental bodies.

The Auditor shall cooperate, act, and function with other audit or evaluation organizations in the State, with appropriate councils or committees of other States, with governing bodies of the political subdivisions of the State, and with Federal agencies in an effort to maximize the extent of intergovernmental audit coordination and thereby avoid unnecessary duplication and expense of audit effort in accordance with the purpose stated in section 3.

Section 18. Authority to administer oaths, subpoena witnesses and records, and take depositions.

a. For the purposes of this act the Auditor or his authorized representative shall have the power to subpoena witnesses, to take testimony under oath, to cause the deposition of witnesses (residing within or without the State) to be taken in the manner prescribed by law, and to assemble records and documents,

by subpoena or otherwise, with the same power and authority as courts of record. The subpoena power granted by this section may be exercised only at the specific written direction of the Auditor or his chief deputy.

b. In case of contumacy by, or refusal to obey a subpoena issued to, any person pursuant to this section, the Auditor may invoke the aid of any court of the State of [] within the jurisdiction of which an investigation or proceeding is carried on or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Auditor or officers designated by the Auditor, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business.

Section 19. Employees.

a. The Auditor may appoint, subject to the appropriations available, all employees necessary to perform the duties and functions assigned to him by the provisions of this act. No more than [] members of the staff, [] of whom will be designated Deputy Auditor, shall be exempt from the classified civil service or merit system of the State. Subject to the provisions of the merit system, the Auditor shall establish regulations governing appointment, classification, promotion, dismissal, termination, layoff, suspension, and compensation of employees.

b. The Auditor shall, subject to the State merit system and the appropriations provided,

appoint¹ and fix the compensation of a Chief Counsel and such other deputy counsels as he deems necessary to:

1. Furnish legal advice to the Auditor concerning any legal matter arising in connection with the exercise of the official powers, or performance of the official duties, of the Auditor.
2. Assist the Auditor in supervising, directing, and controlling all legal matters affecting the Auditor's office.
3. Represent the Auditor in any litigation to which he may be a party or in which he is permitted by law to intervene or interplead.

c. Except where otherwise provided in this act, all powers and duties vested in the Auditor may be delegated by him to deputies, assistants, employees, or other auditors, consultants, professionals, and

¹It may also be necessary to amend any existing constitutional or statutory provisions which give any State attorney general control over the legal affairs of an auditor.

experts, whose services are obtained in accordance with the provisions of section 20 of this act; but, the Auditor shall retain responsibility for the powers and duties so delegated.

Section 20. Contract auditors, consultants, and experts.

a. Notwithstanding any other provisions of law, the Auditor may obtain the services of independent public accountants, qualified management consultants, or other professional persons and experts as he deems necessary or desirable to carry out the duties and functions assigned under the act.

b. The Auditor shall prescribe policy and establish guidelines containing appropriate criteria for selection and use of independent public accountants, qualified management consultants, or other professional persons by State agencies and governing bodies and executive departments of political subdivisions to perform all or part of the audit function as defined herein; such policy shall include a requirement for periodic reporting to the Auditor on compliance with policy guidelines.

Section 21. Conflict of interest, political activity.

a. To preserve the independence and objectivity of the audit function, the Auditor shall unless otherwise expressly authorized by statute devote his full time and effort to carrying out the duties and responsibilities assigned by this act. Neither the Auditor nor any member of his staff shall serve in any capacity on an administrative board, commission, or agency of State government, of a political subdivision of the State, or of any other organization that, under the provisions of this act, he has the responsibility to audit. Neither shall the Auditor or his staff have a material, direct or indirect financial, or other economic interest in the transactions of any State agency or political subdivision. They shall not be responsible for collecting any money belonging to the State or political subdivision or for handling or custody of any State or political subdivision funds or any funds belonging to any other organization that, under the provision of this act, they have responsibility or authority to audit. Neither the Auditor nor any

member of his staff shall engage in or be associated with any partisan political activity or hold any public office.

b. The Auditor shall not supervise an audit of a program or activity for which he had management responsibility or in which he was employed during the preceding [2] years. The [committees] shall provide for the necessary audit of these programs and activities within the meaning of this subsection.

Section 22. Financial records. The Auditor shall install an adequate accounting system for his office and shall keep, or cause to be kept, a complete, accurate, and adequate record of all fiscal transactions of his office.

Section 23. Construction. This act shall be construed liberally in the aid of its declared purpose. The following laws and parts of laws contrary to or in conflict with the provisions of this act are hereby repealed to the extent of such conflict, it being the intention of this act that the establishment of the Office of the Auditor and the duties, powers, qualifications, and purposes herein specified

shall take precedence over any conflicting part of application of any other law [specify repealed laws].

Section 24. Severability. If any provision of this act or the application thereof to any person, State agency, political subdivision, or circumstance is held invalid, such invalidation shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application; and to this end the provisions of this act are declared severable.

Section 25. Effective date. This act takes effect on [].

CONSTITUTIONAL AMENDMENT

Under the constitutions of several States, audits are performed by or under the supervision of an elected auditor. In those States constitutional amendments for an appointed legislative auditor may be needed prior to the adoption of the auditing act.

It is believed that the following language is adequate to meet the required constitutional changes.

Authority and responsibility for auditing

The Auditor shall audit the receipt, expenditure, and application of public funds and in so doing shall be appointed, hold office, have such powers, and perform such duties in such manner, as may be prescribed by law.

PART III
SUGGESTED STATE AUDITING ACT AND
CONSTITUTIONAL AMENDMENT
FOR AN AUDITOR
ELECTED BY THE PUBLIC

THE AUDITING ACT OF [YEAR] CREATING [LEGISLATIVE COMMITTEES ON GOVERNMENTAL OPERATIONS] AND PROVIDING FOR AUDITS, BY THE ELECTED STATE AUDITOR, OF STATE AGENCIES, POLITICAL SUBDIVISIONS, AND OTHER ENTITIES SUPPORTED BY PUBLIC FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
[].

Section 1. Short title. This act may be cited as the "Auditing Act of [year]."

Section 2. Declaration of policy and purpose.
The Legislature is ultimately responsible for authorizing the expenditure of public moneys, designating the sources from which moneys may be collected, and shaping the administrative structure to perform the work of government throughout the State, and is held finally accountable for how the funds are spent and what is accomplished with them. The Legislature should, therefore, provide the basic objectives and

activities, and functions. The elements of such an audit are:

- Financial and compliance--determines whether financial operations are properly conducted, whether the financial reports of an audited entity are presented fairly, and whether the entity has complied with applicable laws and regulations.
- Economy and efficiency--determines whether the entity is managing or utilizing its resources (personnel, property, space, and so forth) in an economical and efficient manner and the causes of any inefficiencies or uneconomical practices, including inadequacies in management information systems, administrative procedures, or organizational structures.
- Program results--determines whether the desired results or benefits are being achieved, whether the objectives established by the Legislature or other authorizing body are being met, and whether the agency has considered alternatives

which might yield desired results at lower costs.

b. "Federal agency," any department, agency, or instrumentality of the Federal Government and any federally owned or controlled corporation.

c. "Formal advertising," competitive, fixed price, low bid procurement.¹

d. "Merit system," a planned State or local operation that develops and maintains an efficient career service under public rules which include, but are not limited to, provisions requiring appointment through competitive examination; nondiscrimination in race, politics, sex, or religion; an equitable and adequate plan of compensation; tenure contingent on successful performance; and promotion based on evaluated capacity and service.

¹See Federal Procurement Regulations, Part 1-2 for a description of this procurement concept.

standards for audits of State agencies and political subdivisions.

In the interest of reducing audit overlap and expense at all levels of government, the Legislature and the Auditor should promote, to the extent possible, coordinated nonduplicating audit of public programs and activities at all governmental levels throughout the State.

It is the intent of this act that all State agencies, political subdivisions, and other entities supported by public funds within the State be subject to audit by or under the policy guidance of the Auditor. Such audits shall be made to assist in furnishing the Legislature, the Governor, the executive departments and agencies of the State, the governing bodies and executive departments of the political subdivisions of the State, and the public in general with an independent evaluation of public program performance.

Section 3. Legislative and management control systems. It is the intent of this act that auditing

by or for State agencies and political subdivisions will not be duplicated by the Auditor. As appropriate, all State agencies, and the governing bodies or executive departments of political subdivisions are encouraged to establish, maintain, and use effective systems of management control or, in the case of local governing bodies, legislative control, including audit. The adequacy of these control systems will be reviewed by the Auditor in accordance with section 11, b, 6. The Auditor may, at his discretion, use such reviews

- to limit his audit activity under sec-

- tion 11, c and

- to suggest guidelines, make recommendations and provide assistance where necessary.

Section 4. Definitions. The words and phrases used in this act have the following meanings.

- a. "Audit," an independent postaudit or examination of government organizations, programs,

e. "Malfeasance," any wrongful conduct of a public officer that affects, interrupts, or interferes with the performance of an official duty.

f. "Misfeasance," the performance of a duty in an improper manner by a public officer.

g. "Nonfeasance," the total omission or failure of a public officer to enter upon the performance of some duty or undertaking required by his office.

h. "Political subdivision," a separate agency or unit of local government created or established by law and includes, but is not limited to, authority, agency, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, quasi-public corporation, town, township, or village and all boards, commissions, committees, bureaus, and departments of such political subdivisions; provided, the legislative functions of elected governing bodies, such as city and county councils, are not included in the meaning of this term.

i. "State," a State, territory, or possession of the United States, including the District of Columbia.

j. "State agency," a unit or entity of State government created or established pursuant to law, including, but not limited to, authority, agency, board, branch, bureau, commission, department, district, division, institution, office, officer, and public corporation.

Section 5. Establishment of the [Legislative Committees on Government Operations (committees)].¹

There is hereby created in each House of the Legislature a [Legislative Committee on Government Operations (committees)] which shall be a permanent standing committee.

¹ Coordination of the legislative oversight function may be assigned to an existing standing committee in each of the respective houses to avoid a proliferation of committees. Committee responsibilities should include those stated in section 8. Where the press of other matters on these standing committees is so great as to derogate the attention given to the oversight process, including audit, subcommittees conforming to sections 5 through 8 can be organized.

Section 6. [Committees' membership]. The [committees] shall consist of [number] members of the [Senate] and [number] members of the House of Representatives] appointed in the same manner as standing committees in the respective Houses. The committees shall consist of equal representation from the two parties gaining the greatest number of votes at the last State-wide election. The terms of appointed members shall end by resignation, the termination of service in the Legislature, or [specify]. Vacancies on the committees between legislative sessions shall be filled in the same manner as provided above. The committees shall select their own chairmen, and such other officers as they deem necessary, from among their membership and shall prescribe their own rules of procedure for the conduct of committee affairs.

Section 7. Meetings and reimbursement. The [committees] shall meet as often as may be necessary, during and between legislative sessions, to perform their duties and functions. Committee members shall be reimbursed from appropriations made available for

their actual and necessary expenses incurred as a result of such regular and interim meetings and other duties as required in accordance with statutes governing expense reimbursement to members of the Legislature.

Section 8. Responsibilities of the [Committees].

The [committees] shall be responsible for coordinating legislative oversight of the economy, efficiency, and effectiveness of government operations and activities, including auditing. The [committees] shall:

- a. Meet with appropriate representatives of other committees of the House and Senate to discuss the oversight plans of such committees and to assist in coordinating all of the oversight activities of the House and Senate. The [committees] shall report [specify period of time] to the House and the Senate and shall review plans and priorities identified during such meetings and discussions, along with any recommendations which they may have, to insure

the most effective coordination of such activities and otherwise achieve the objectives of this section.

- b. Receive and examine reports of Legislative Finance Committees, other legislative committees, and the Auditor and submit such recommendations to the House and Senate or to legislative committees as it deems necessary or desirable in connection with the subject matter of such reports.
- c. Periodically review, or request the Auditor to review the activities of State agencies and political subdivisions, including their economy, efficiency, and effectiveness, without regard to the oversight jurisdiction over such matters that may be held by other committees.

Section 9. Action on reports of the [Auditor,] Legislative Finance Committees and other legislative committees. The head of the audited organization to which a report by the Auditor, the Legislative Finance Committee, or other legislative committees

pertains shall, within a reasonable time after receipt of the report, advise the Auditor, and the Chairmen of the [committees], or the local governing body (when a political subdivision is involved) of actions taken or to be taken on any recommendations made in the report or explain the reasons for not taking action.

Section 10. Requests for [Auditor] assistance.

Members and committees of the Legislature and local governing bodies, the Governor, and other State officials may request the Auditor to undertake a specific audit or investigation; to provide technical assistance and advice; and to provide recommendations on management systems, finance, accounting, auditing, budgeting, and other areas of management interest.

Section 11. Duties and responsibilities.

a. It is the stated policy of the Legislature to provide for the auditing of State agencies and political subdivisions by an impartial independent auditor.

b. The duties of the Auditor are to independently examine into whether State agencies and political subdivisions:

1. Are carrying out only those activities or programs authorized by the Legislature, the governing bodies of political subdivisions, and, if applicable, Federal law and regulation.
2. Are determining that the authorized activities or programs effectively serve the intent and purpose of the Legislature and, if applicable, Federal law and regulation.
3. Are conducting programs and activities and expending funds made available in a faithful, efficient, and economical manner only in compliance with and in furtherance of applicable laws and regulations of the State, governing bodies of political subdivisions, and, if applicable, Federal law and regulation.
4. Are promptly collecting, depositing, and properly accounting for all revenues and receipts arising from their activities.
5. Are providing financial and other reports which disclose fairly, consistently, fully,

and promptly all information needed to show the nature and scope of programs and activities and to establish bases for evaluating the results of such programs and operations.

6. Have established adequate operating and administrative procedures and practices; systems of accounting, reporting, and auditing; and other necessary elements of legislative or management control.

c. The Auditor shall be responsible for the following acts and activities.

1. He shall make and enforce such reasonable rules and regulations as are necessary for the operation of his office.
2. He shall perform his authorized duties independent of the executive branch and in support of the responsibilities of the [committees]. Except as otherwise provided by law, neither the Legislature nor the Governor nor any department or agency of the executive branch of State government or

political subdivision of the State shall have authority to limit the scope, direction, or report of an audit undertaken by the Auditor.

3. Audits made or caused to be made by the Auditor shall be made in accordance with auditing standards, issued by the United States General Accounting Office and those promulgated by the American Institute of Certified Public Accountants referred to therein.
4. Audits may be made at the discretion of the Auditor without advance notice to the organization being audited.
5. The Auditor, on his own initiative and as often as he deems necessary or as requested by the Legislature, shall, to the extent deemed practicable and consistent with his overall responsibility as contained in this act, make or cause to be made audits of all or any part of the activities of

the State agencies and political subdivisions. In so doing, he shall take into consideration the effectiveness of the established system of legislative or management control, including audit, within or applicable to the State agency or political subdivision so that duplication of auditing effort and expense may be minimized.

6. The Auditor, at his own discretion, may, in selecting audit areas and in evaluating current audit activity, consider and utilize, in whole or in part, the relevant audit coverage and applicable reports of the audit staffs of the various State agencies, political subdivisions, independent contractors, and Federal agencies. He shall coordinate, to the extent deemed practicable, the auditing conducted within the State to meet the needs of all governmental bodies.

7. The Auditor, at his own discretion, may perform specific auditing services requested by State agencies, political subdivisions, and Federal agencies.

d. In recognition of the potential usefulness of the independent audit to both the legislative and executive branches of government, the Auditor shall be responsible for providing complete and timely reports of his activities in accordance with the following procedure:

1. The Auditor shall promptly provide in a written statement to the Attorney General, and other appropriate officials, such facts as are in his possession which pertain to the (a) apparent violation of penal statutes and (b) apparent instances of misfeasance, malfeasance, or nonfeasance by an officer or employee.
2. At the conclusion of an audit, the Auditor or his designated representative shall discuss the audit with the official whose office is subject to audit and submit

necessary underlying facts developed for all findings and recommendations which may be included in the audit report. If practicable, the official shall be permitted a reasonable time to examine and evaluate the audit findings and shall be permitted to submit to the Auditor or his designated representative a written statement of explanation or rebuttal concerning the audit findings, including a statement of actions taken or under consideration relative to the audit findings and recommendations.

If such a statement is not received within a reasonable time, the Auditor may submit the report without it.

3. A copy of each audit report shall be submitted to the Legislature and to [committees], the Appropriation Committees, and the legislative committees, having jurisdiction over legislation relating to the operations of the audited organization, of the two Houses. The Auditor shall also provide

a copy of each audit report to the Governor and shall file a copy of the audit report in the Auditor's office, which will be a permanent public record, and shall make or cause to be made such public notice of the report as is required by law; provided, nothing in this subsection shall be construed as authorizing or permitting the publication of information whose disclosure is otherwise prohibited by law; provided also that release of reports of audits performed at the specific request of a legislative [committee] may be restricted to that committee at the discretion of the committee.

4. It is not the intent of the audit function, nor shall it be so construed, to infringe upon or deprive the Legislature and the executive or judicial branches of State or local government of any rights, powers, or duties vested in or imposed upon them by statute or the constitution.

Section 12. Reports and workpapers. The Auditor shall maintain for [specify] years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under his authority, together with audit workpapers and other evidence and related supportive material directly pertaining to the work of his office. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, pertinent workpapers and other supportive material related to issued audit reports may be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of agencies of the Federal Government and political subdivisions of the State who desire access to and inspection of such records in connection with some matter officially before them.

Section 13. Access to persons and records.

a. The Auditor and his authorized representatives shall, for auditing authorized by this act, have ready access to persons and may examine and copy such records, accounts, papers, reports, vouchers,

correspondence, books, and any other documentation of any State agency or political subdivision. The Auditor and his authorized representatives shall also have access to State tax returns, provided the Auditor's report does not violate the confidentiality provisions of the tax laws.

b. The Auditor and his duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books and any other documentation which is in the possession of any private corporation, institution, association, board, or other organization which pertain to:

1. Amounts received pursuant to grant or contract entered into without formal advertising from the Federal Government, the State, or its political subdivisions.
2. Amounts received, disbursed, or otherwise handled on behalf of the Federal Government or the State, or its political subdivisions.

c. The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in (1) the possession of any State agency or political subdivision and (2) the possession of any private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract or any other type of funding by the State of [specify], a political subdivision thereof, or the Federal Government.

d. All contracts or grants entered into by State agencies or political subdivisions without formal advertising shall include, as a necessary part, a clause providing access as intended by subsection b of this section; and all contracts or grants entered into by State agencies or political subdivisions shall include, as a necessary part, a clause providing access as intended by subsection c of this section.

Section 14. Cooperation with other governmental bodies. The Auditor shall cooperate, act, and function with other audit or evaluation organizations in the State, with appropriate councils or committees of other States, with governing bodies of the political subdivisions of the State, and with Federal agencies in an effort to maximize the extent of inter-governmental audit coordination and thereby avoid unnecessary duplication and expense of audit effort in accordance with the purpose stated in section 3.

Section 15. Authority to administer oaths, subpoena witnesses and records, and take depositions.

a. For the purposes of this act the Auditor or his authorized representative shall have the power to subpoena witnesses, to take testimony under oath, to cause the deposition of witnesses (residing within or without the State) to be taken in the manner prescribed by law, and to assemble records and documents, by subpoena or otherwise, with the same power and authority as courts of record. The subpoena power granted by this section may be exercised only

at the specific written direction of the Auditor or his chief deputy.

b. In case of contumacy by, or refusal to obey a subpoena issued to, any person pursuant to this section, the Auditor may invoke the aid of any court of the State of [] within the jurisdiction of which an investigation or proceeding is carried on or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Auditor or officers designated by the Auditor, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business.

Section 16. Employees.

a. The Auditor may appoint, subject to the appropriations available, all employees necessary to perform the duties and functions assigned to him by the provisions of this act. No employees, except two positions which may be designated as deputy or assistant auditor positions, shall be exempt from the classified civil service or merit system of the State. Subject to the provisions of the merit system, the Auditor shall establish regulations governing appointment, classification, promotion, dismissal, termination, layoff, suspension, and compensation of employees.

b. The Auditor shall, subject to the State merit system and appropriations provided, appoint and fix the compensation of a chief deputy who shall:

1. At the time of his appointment, have demonstrated technical competence and administrative ability and

(a) have at least [5] years of supervisory and management experience in auditing a major government agency at the State, Federal, or local level or a major commercial or nonprofit organization and

(b) be a certified public accountant, a licensed public accountant, or a certified internal auditor or have received an appropriate graduate degree from an accredited institution of higher learning.

2. Assist the Auditor in supervising, directing, and controlling all audit activities of the Auditor's office.
3. Be the principal adviser to the Auditor concerning the performance of official audit duties of the Auditor.

c. The Auditor shall, subject to the State merit system and the appropriations provided, appoint¹ and fix the compensation of a Chief Counsel and such other deputy counsels as the Auditor deems necessary to:

1. Furnish legal advice to the Auditor concerning any legal matter arising in connection with the exercise of the official powers or performance of the official duties of the Auditor.
2. Assist the Auditor in supervising, directing, and controlling all legal matters affecting the Auditor's office.
3. Represent the Auditor in any litigation to which he may be a party or in which he is permitted by law to intervene or interplead.

¹It may also be necessary to amend any existing constitutional or statutory provisions which give any State attorney general control over the legal affairs of an auditor.

d. Except where otherwise provided in this act, all powers and duties vested in the Auditor may be delegated by him to deputies, assistants, employees, or other auditors, consultants, professionals, and experts, whose services are obtained in accordance with the provisions of section 17 of this act; but, the Auditor shall retain responsibility for the powers and duties so delegated.

Section 17. Contract auditors, consultants, and experts.

a. Notwithstanding any other provisions of law, the Auditor may obtain the services of independent public accountants, qualified management consultants, or other professional persons and experts as he deems necessary or desirable to carry out the duties and functions assigned under the act.

b. The Auditor shall prescribe policy and establish guidelines containing appropriate criteria for selection and use of independent public accountants, qualified management consultants, or other professional persons by State agencies and governing bodies and executive departments of political subdivisions

to perform all or part of the audit function as defined herein; such policy shall include a requirement for periodic reporting to the Auditor on compliance with the policy and guidelines.

Section 18. Conflict of interest, political activity.

a. To preserve the independence and objectivity of the audit function, no deputy, counsel, or any other employee of the Auditor's office shall engage in or be associated with any partisan political activity or hold any public office. The partisan political activity of the Auditor must be restricted to that directly related to his own elective office. The Auditor and his deputies and counsels may not, unless otherwise expressly authorized by statute, serve in any capacity on an administrative board, commission, or agency of government of a political subdivision of the State or any other organization that, under the provisions of this act, they have the responsibility or authority to audit. Nor shall they have a material, direct or indirect financial, or other economic interest in the transactions of any

State agency or political subdivision. They shall not be responsible for collecting any money belonging to the State or a political subdivision or for handling or custody of any State or political subdivision funds or any funds belonging to any other organization that, under the provisions of this act, they have responsibility or authority to audit.

b. The Auditor shall not supervise an audit of a program or activity for which he had management responsibility or in which he was employed during the preceding [2] years. The [committees] shall otherwise provide for the necessary audit of programs and activities within the meaning of this subsection.

Section 19. Financial records. The Auditor shall install an adequate accounting system for his office and shall keep or cause to be kept a complete, accurate, and adequate record of all fiscal transactions of his office.

Section 20. Construction. This act shall be construed liberally in the aid of its declared purpose. The following laws and parts of laws, contrary

to or in conflict with the provisions of this act, are accordingly hereby repealed to the extent of such conflict, it being the intention of this act that the establishment of the Office of the Auditor and the duties, powers, qualifications, and purposes herein specified shall take precedence over any conflicting part of application of any other law [specify repealed laws].

Section 21. Severability. If any provision of this act or the application thereof to any person, State agency, political subdivision, or circumstance is held invalid, such invalidation shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 22. Effective date. This act takes effect on [].

CONSTITUTIONAL AMENDMENT

Under the constitutions of several States, audits are performed by or under the supervision of an elected auditor. In some of those States, constitutional amendments may be needed prior to the adoption of the auditing act to create a closer working relationship with the State legislature and greater independence from the executive branch.

It is believed that, the following language is adequate to meet the required constitutional changes. Compensation for the auditor can be set in the same manner as that for other elected State officials or as otherwise required by law and should not be reduced during his tenure of office.

Section 1. Authority and responsibility for auditing. The Auditor shall audit the receipt, expenditure, and application of public funds and in so doing shall have such powers and perform such duties in such manner as may be prescribed by law.

Section 2. Election and term of Auditor. The Auditor shall be elected to a [number] year term of

office. (The election for Auditor shall be held in even-numbered nongubernatorial years.)¹

¹If the nonconcurrent election procedure is desired to maximize electoral independence, 4 is inserted before year and the second sentence is used. If the long-term procedure to maximize independence is desired, 5, 6, or 7 may be inserted, and the second sentence may be omitted. If both the nonconcurrent and long-term election procedures are desired, 8 may be inserted before year, and the second sentence is used.

SUMMARY OF DIFFERENCES BETWEEN
APPOINTED AND ELECTED AUDITOR REQUIREMENTS

<u>References</u>		<u>Summary of differences</u>	
<u>Appointed act</u>	<u>Elected act</u>		
<u>Section</u>	<u>Page</u>	<u>Section</u>	<u>Page</u>
5	10	5	41
			The appointed auditor act establishes both the auditor's office and a government operations committee to coordinate legislative oversight and auditing. The elected auditor act establishes only the committee because the auditor position is constitutional.
8	12	8	43
			The appointed auditor act requires the government operations committee to evaluate candidates for the auditor position and make recommendations to the Governor and/or legislature. The political process will select elected auditors.
11	14		
			The appointed auditor act has a section on compensation and appointment of the auditor.

APPENDIX I

<u>References</u>				<u>Summary of differences</u>
<u>Appointed act</u>		<u>Elected act</u>		
<u>Section</u>	<u>Page</u>	<u>Section</u>	<u>Page</u>	
				The elected auditor act does not. Compensation and appointment, however, are discussed in the elected auditor constitutional amendment.
12	15			The appointed auditor act specifies the auditor's minimum professional qualifications. The elected auditor act does not.
13	16			The appointed auditor act has a section on term of office. The elected auditor act includes term of office in the constitutional amendment.
19	28	16	57	Professional qualifications are specified for the appointed auditor but not for the elected auditor. The two acts, therefore, treat employees differently. The elected auditor (1) is required to appoint a chief deputy, subject to the State merit system, with the same professional qualifications specified for the appointed auditor and

APPENDIX I

<u>References</u>				<u>Summary of differences</u>
<u>Appointed act</u>		<u>Elected act</u>		
<u>Section</u>	<u>Page</u>	<u>Section</u>	<u>Page</u>	
				(2) is authorized to appoint two lesser assistants or deputies outside the merit system. The appointed auditor is given the option to acquire an unspecified number of deputies outside the merit system.
21	31	18	61	The appointed auditor act precludes all political activity by the appointed auditor and his staff. The elected auditor act precludes political activity by all staff members and requires the elected auditor to restrict his political activity to his election only.
Amendment	34	Amendment	64	Both constitutional amendments assign general authority and responsibility for auditing to the auditor position and empower the legislature to prescribe its specific powers and duties. The elected auditor amendment also includes the term of office.

APPENDIX II



ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D C 20575

June 21, 1974

Honorable Elmer Staats
Comptroller General of the United States
General Accounting Office
Washington, D.C. 20548

Dear Elmer,

To simplify administrative controls under Federal aid programs, the Advisory Commission on Intergovernmental Relations adopted a basic recommendation in 1967 with respect to accounting and auditing. This proposal looked forward to the time when state and major local governments would have accounting and auditing systems of sufficient adequacy and integrity to allow the results of their own audits to be accepted in lieu of audits by Federal agencies. Several obstacles stood in the way of achieving this result when the Commission made its recommendations in 1967. Neither auditing standards nor a post-audit statute incorporating the standards had been developed for use by the states and localities.

We at ACIR were encouraged when you and your staff, working with state and local officials, developed and published Standards for Auditing Governmental Organizations, Programs, Activities and Functions. We realized then that the conceptual framework established by the standards publication provided the basis for a draft state statute on post-auditing.

Now that states and localities have greater discretion in the use of Federal assistance, the auditing function stands out as a critical factor in an effective public management process. To the extent that this process is strengthened by implementation of audit legislation of the character presented here, the Nation will be moving toward the ultimate goal of having Federal agencies accept state and local audits because Congress and the Executive branch are convinced of their professionalism and independence.

APPENDIX II

Honorable Elmer Staats

June 21, 1974

We would all like to believe that this statute will be acted on immediately in a great number of states. That may not occur if I can judge from my ACIR experience. Because the 50 state and local financial systems reflect diverse needs and history, it is important to emphasize that this model legislation will probably have to be adapted to the unique requirements of each state that is interested in strengthening its audit process. At best, model legislation houses the ideas that deserve consideration in the development of a state legislative enactment. It supplements rather than substitutes for the thoroughgoing legislative analysis of how best to assure efficient and economic operation of state and local governments.

Sincerely,



Wm. R. MacDougall
Executive Director